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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/722,712
Filing Date: November 25, 2003
Appellant(s): ERICKSON ET AL.

Robert W. Holland
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on 3/26/07 appealing from the Office action
mailed 12/19/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US 2003/0095487 A1 by Nishizawa et al. [paragraphs 69-75,77, 81, 86, 90, 100-110 and 120].

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 U.S.C. § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-19 are rejected under 35 U.S.C. § 102(e) as being anticipated by Nishizawa et al., US. patent Application 2003/0095487 A1 (hereafter Nishizawa).

As to claim 1, Nishizawa discloses the invention as claimed [see Figs. 4, 6-11 & 14-15] including plural components, an optical drive and an optical medium identification module, comprising:

plural components [fig. 4] operable to process information [paragraphs 69-75];

an optical drive interfaced [fig. 4, unit 51, 52] with the plural components and operable to communicate information between the plural components and an optical medium [fig. 4, unit 10, 20 or 30], the optical drive having plural lasers, each laser associated with a type of optical medium [signals DS1 to DS3] [paragraphs 77, 81 and 86]; and

an optical medium identification module [fig. 4, units 53, 60 65 etc.] associated with the optical drive and operable to illuminate an optical medium with a first of the plural lasers to detect identification information embedded on the optical medium that identifies the optical medium as associated with a second of the plural lasers [paragraphs 77, 81, 86, 90-93, 101 and 120].

2. The aforementioned claim 2, recites the following elements, inter alia, disclosed in Nishizawa:

the first laser comprises a red laser [laser for CD, disk 10] and the second laser comprises a blue laser [laser for HD, disk 30] [paragraphs, 77, 81, 86].

3. The aforementioned claim 3, recites the following elements, inter alia, disclosed in Nishizawa:

the optical medium identification module is further operable to initiate use of the blue laser for the optical medium if the red laser detects the identification information associated with the blue laser [fig. 6 and paragraphs 102-110].

4. The aforementioned claim 4, recites the following elements, inter alia, disclosed in Nishizawa:

the optical medium identification module is further operable to perform a DVD detection algorithm if the red laser fails to detect the identification information associated with the blue laser [fig. 9, paragraphs 100-102].

5. The aforementioned claim 5, recites the following elements, inter alia, disclosed in Nishizawa:

the plural lasers further comprise an IR laser and the optical medium identification module is further operable to perform a CD detection algorithm with the IR laser if the DVD detection algorithm fails to identify the optical medium as a DVD [fig. 6 and paragraphs 102-110].

6. The aforementioned claim 6, recites the following elements, inter alia, disclosed in Nishizawa:

the first laser comprises an IR laser [laser for CD, disk 10] and the second laser comprises a blue laser [laser for HD, disk 30] [paragraphs, 77, 81, 86].

7. The aforementioned claim 7, recites the following elements, inter alia, disclosed in Nishizawa:

the optical medium identification module is further operable to initiate use of the blue laser for the optical medium if the IR laser detects the identification information associated with the blue laser [fig. 6 and paragraphs 102-110].

8. The aforementioned claim 8, recites the following elements, inter alia, disclosed in Nishizawa:

the optical medium identification module is further operable to perform a CD detection algorithm if the IR laser fails to detect the identification information associated with the blue laser [fig. 9, paragraphs 100-102].

9. The aforementioned claim 9, recites the following elements, inter alia, disclosed in Nishizawa:

the plural lasers further comprise a red laser and the optical medium identification module is further operable to perform a DVD detection algorithm with the red laser if the CD detection algorithm fails to identify the optical medium as a CD [fig. 9, paragraphs 100-102].

10. The aforementioned claim 10, recites the following elements, inter alia, disclosed in Nishizawa:

selecting a first of the plural lasers to illuminate the optical medium; attempting with the first laser to read identification information from the optical medium that is associated with a second of the plural lasers; initiating use of the second laser according to the identification information if the attempt to read the identification information with the first laser succeeds; and performing a detection algorithm with the first laser if the attempt to read the identification information fails, the first laser detection algorithm attempting to identify the optical medium as associated with the first laser [fig. 6 and paragraphs 102-110].

11. The aforementioned claim 11, recites the following elements, inter alia, disclosed in Nishizawa:

initiating use of the first laser if the first laser detection algorithm succeeds;

performing a detection algorithm with a third laser if the first laser detection algorithm fails, the third laser detection algorithm attempting to identify the optical medium as associated with the third laser [fig. 6 and paragraphs 102-110].

12. The aforementioned claim 12, recites the following elements, inter alia, disclosed in Nishizawa:

the first laser comprises a red laser, the second laser comprises a blue laser and the third laser comprises an IR laser [paragraphs 81, 102-110].

13. The aforementioned claim 13, recites the following elements, inter alia, disclosed in Nishizawa:

the first laser comprises an IR laser, the second laser comprises a blue laser and the third laser comprises a red laser [paragraphs 81, 102-110].

14. The aforementioned claim 14, recites the following elements, inter alia, disclosed in Nishizawa:

the optical medium associated with the first laser comprises a DVD and the optical medium associated with the third laser comprises a CD [fig. 6 and paragraphs 102-110].

15. The aforementioned claim 15, recites the following elements, inter alia, disclosed in Nishizawa:

the optical medium associated with the first laser comprises a CD and the optical medium associated with the third laser comprises a DVD [fig. 6 and paragraphs 102-110].

16. The aforementioned claim 16, recites the following elements, inter alia, disclosed in Nishizawa:

a data layer operable to store data readable by a first laser;
a protective surface disposed over the optical medium; embedded identification information disposed for reading by a second laser, the identification information identifying the optical medium as associated with the first laser [fig. 6 and paragraphs 102-110].

17. The aforementioned claim 17, recites the following elements, inter alia, disclosed in Nishizawa:

the identification information is embedded on the protective surface [fig. 6 and paragraphs 102-110].

NOTE: Identification information is inherently done on the protective layer so as not to scratch the data surface.

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18. The aforementioned claim 18, recites the following elements, inter alia, disclosed in Nishizawa:

the first laser comprises a blue laser and the second laser comprises an IR laser [fig. 6 and paragraphs 102-110].

19. The aforementioned claim 19, recites the following elements, inter alia, disclosed in Nishizawa:

first laser comprises a blue laser and the second laser comprises a red laser. [fig. 6 and paragraphs 102-110].

Claim Rejections - 35 U.S.C. § 103

20. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Nishizawa as applied to claim 1-19 above.

As to claim 20 Nishizawa discloses all of the above elements and steps. Nishizawa does not specifically disclose id information embedded in the data layer is of the size 0.3 mm long and 0.5 mm of width. "Official Notice" is taken that both the concept and the advantages of providing small ID marks which include the size 0.3 mm long and 0.5 mm wide are well known and expected in the art. It would have been obvious to include this size IDs to the system of Nishizawa as these small marks are known to provide the system with minimum area loss and thus saving money and provide more space for data writing. These concepts are well known in the art and do not constitute a patentably distinct limitation, per se [M.P.E.P. 2144.03].

21. For the convenience of the Board following remarks are made to clarify the position of the Examiner:

The invention related to different lasers with different wavelengths are used for different kind of disks. Also an identification module that identifies the discs and associated laser that are used with it. These lasers are so called blue, red and IR [infra-red] lasers. Point of contention seems to be 'identification information embedded on the disc [optical medium].

One of ordinary skill in the art knows that all discs have the wobble or concave/convex grooves or pre-grooves or pre-pits embedded in them [see col. 1, paragraph 0005; Nishizawa]. These pits are designed for each type of disk i.e. CD , DVD or high density DVD. The size of these pre-pits are different and unique to that type of disc. High density discs have smaller embedded pre-pits and normal density discs have larger embedded pre-pits. Pre-pits by definition are recorded before the regular reading or writing is done. So, by definition these pre-pits are in a way "embedded identification marks" unique to each type of disc, and by reading the size of these marks one can tell what type of disc is this. This kind of reading of the size of the marks is done [among other methods] by generating the tracking error signals, which are direct result of the size of these marks. Now by comparing these marks to a value [threshold or previous signal] one can tell is recording medium is CD or DVD etc.. Smaller the signal it is DVD, higher the signal it is CD. To the extent what is being claimed. Nishizawa shows embedded identification information [in the form of pre-pits]. Size itself is the "identification information" for that particular disc.

(10) Response to Argument

22. Applicant's arguments filed on 11/6/06 have been fully considered but they are not deemed to be persuasive for the following reasons.

In the REMARKS, the Applicant argues as follows:

A) That: “Nishizawa does not read identification information to determine an optical medium type but rather looks at focus and tracking error” [page 3, paragraph 7; APPEAL BRIEF].

It is true that Nishizawa does indeed look at the tracking error and the focus error. However closer look reveals that tracking error is a function of the width of the pre-pit [which are inherently present in any new disc], thus pre-pits are functioning as the identification marks. This is so because CD has larger pre-pits, DVD has smaller pre-pits and HD has smallest pre-pits [see paragraph 141-142].

B) That: “Nishizawa does not read identification information with the IR or red laser that relates to the high density laser, Nishizawa cannot anticipate Claim 1.” [page 4, paragraph 1; APPEAL BRIEF].

FIRST: This argument was answered in previous action. It is presented again below.

SECOND: Nishizawa does disclose this aspect when first laser is first started for initial setting [see paragraphs 86, 90, 91, 101, 120, 128, 131]. Here again Nishizawa disclose that second or third laser can be used for identifying the disc.

C) That: “Nishizawa cannot anticipate claim 10 for the reasons set forth with respect to claim 1 since claim 1 recites a “read” of identification information with first laser.

Please see arguments presented above in sections A) and B).

NOTE: Same arguments presented above are applicable to Claim 16.

For the above reasons, it is believed that the rejections should be sustained.

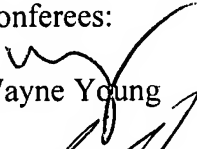
Respectfully submitted,

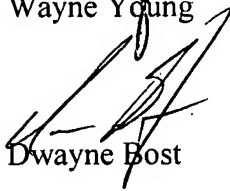
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